

Regulatory Agency, the Korea Communications Commission

1. Overview

- o As the telecommunications industry was gradually privatized and deregulated in 1980s, the Korean government recognized a growing need to protect consumers and to regulate anti-competitive practices of the service providers. In an effort to meet this policy need more effectively, the Korean government decided to establish a regulatory body from the policy-making function of the government, based on the benchmarking of developed countries such as the U.S., United Kingdom and Canada.
- o The Korean Communications Commission (KCC) was established in March, 16 1992, in accordance with the Section 37 of the Basic Telecommunications Act which was revised in 1991 in order to create an environment for fair competition and to protect the public interests.

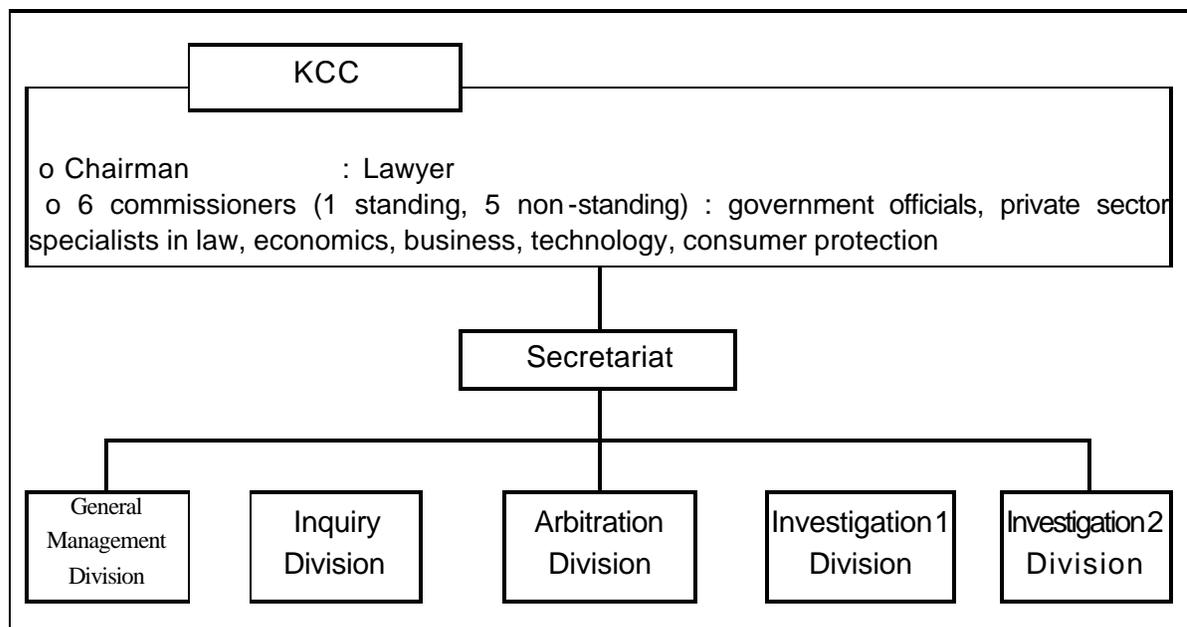
The role of the KCC was gradually strengthened as the competition of telecommunication marketplace developed.

In December 1997, a standing commissioner was appointed and the secretariat was organized, and the KCC was newly granted authorities to investigate unfair practices of the service providers and inquiry their interconnection standards and agreement.

- o In September 1998, the preview of the numbering plan and the

examination of the business accounting report were transferred from the Ministry of Information and Communication to the KCC, and a fine of up to 3% of the revenue was ruled to be imposed on the service providers for their illegal activities. The KCC has now been positioned as a specialized regulatory agency for promoting fair competition.

2. Organization and Main Functions



- o The commissioners (except the standing commissioner) are appointed by president and guaranteed three-year terms.

The chairman delegates the overall management and administrative responsibility to the standing commissioner. The commissioner carries out preliminary reviews of the agenda that will be presented to the commission for discussion.

- o The office of the secretariat is composed of one Secretary-General and a total

of 25 personnel in five departments: General Management, Inquiry, Arbitration, Investigation 1, and Investigations 2. The Secretary-General plays the managerial role of supervising the operations of the Committee, and the Office of Secretariat undertakes administrative works for the functioning of the Committee such as providing support to the Committee and investigating unfair practices and consumer complaints.

- o As a specialized regulatory agency, the KCC performs the functions of arbitration, inquiry, investigation, verification and consumer protection.
 - arbitrates the disputes among service providers, and between service providers and consumers for compensation
 - deliberates prior to rulemaking for the interconnection, provision of facilities, information provision, and numbering plans
 - investigates unfair practices such as refusal and breach of agreements between service providers, breach of contracts between service providers and consumers, and other practices against consumer interests , and advises the government on corrective measures
 - examines and verifies business accounting reports submitted by service providers
 - promptly dealt with consumer complaints in telecommunication services through "The Consumer Inquiry Center"

3. The Rules for fair competition and customer protection

A. Types of Unfair Practices

The KCC made public the following types of unfair practices based on Section 36.3 of the Telecommunications Act in the "Criteria of Unfair Practices in the Telecommunications Industry" :

? Refusals of making Agreements,etc (regarding interconnections, provision of facilities, facilities sharing, information provision)

- acts of refusing requests for interconnection without reasonable cause; acts of discrimination against other companies with respect to interconnections etc without reasonable cause; acts of not implementing contracted agreements without reasonable cause

? Information Misuse

- acts of misusing information gathered from interconnections etc with other service providers for the benefit of one's own business

? Setting Unfair Prices

- practices of setting retail prices or access charges against accounting rules and other related laws, cross subsidies, and fabricating price elements such as costs or assets

? Violating Usage Contracts and Undermining User Benefits

- acts of making individual contracts other than common contracts, acts of offering different service conditions from common contracts, acts of offering services in ways that markedly undermine user benefits

? Restrictions on carrier selection

- acts of installing and operating telecommunications facilities that can be used only for specific services, acts of refusing to provide services or acts of offering unfavorable services to subscribers of other telecommunication services
- bundling of services is permitted in principle, but in case the service provider has market dominance in one of the bundled services, the proof for non-extension of market dominance to the other bundled services is required

B. Performance (January 1997 to July, 2000)

As of July, 2000, the KCC has held 39 meetings to vote on a total of 243 cases for review, wherein The KCC has issued corrective measures for 169 cases of illegal acts, and arbitrated for 13 cases.

The acts of violations are categorized into 6 cases of refusal of contract agreements, 2 cases of information mis use, 7 cases of improper tariff calculation, 67 cases of contracts violations, and 77 cases of obstruction of user benefits (31 cases of fines totalled 2.8 billion won, 70 million won for negligence fines, 33 cases of newspaper announcements)

4. Regulatory Issues and Concerns : Strengthening regulatory authority and ensuring independence

? **The relationship with MIC**

To elevate the transparency, neutrality and efficiency of regulations, the functions of regulatory enforcement such as filing and approval of interconnection agreements and usage contracts, and the authority to issue corrective order for anti-competitive practices by service providers should be transferred to the KCC.

The MIC should concentrate its efforts on setting the rules of the game by improving pro-competitive laws and institutions and ensuring independence in the matters of finance and personnel management of the secretariat office.

? **Relationship with Fair Trade Commission as the general antitrust authority**

Even though the antitrust regulatory body in some countries tends recently to extend its general regulatory authority to the telecommunications sector, it is desirable to maintain the role of the specialized regulatory agencies under a cooperative relationship between both regulatory bodies.

In order to avoid imposing double penalties for identical acts from both agencies, detailed cooperation rules were revised in the Telecommunications Business Act.

In the future, a more systematic mechanism of specialization and cooperation between both regulatory authorities will be designed for dealing with such matters as approving large-scale M&As among the service providers.

